

REMARKS

In the **final** Office Action mailed May 12, 2010, the Office noted that claims 16, 17, 19, 20 and 22-26 were pending and rejected claims 16, 17, 19, 20 and 22-26. In this Response no claims have been amended, no claims have been canceled, and, thus, in view of the foregoing, claims 16, 17, 19, 20 and 22-26 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections are traversed below.

REJECTIONS under 35 U.S.C. § 103

Claims 16, 17, 19, 20 and 22-26 stand rejected under 35 U.S.C. § 103(a) as being obvious over Park, U.S. Patent Publication No. 2005/0025003 in view of Hwang, U.S. Patent Publication No. 2008/0101181 in view of Ito, U.S. Patent Publication No. 2003/0137909. The Applicants respectfully disagree and traverse the rejection with an argument.

On pages 3 and 4 of the Office Action, it is asserted that Park discloses "the evacuation data being recorded with one predetermined point which exists in said shared area as a start point, the defect management information being recorded with another predetermined point which exists at a different point from the one point as a start point, in said shared area," as in claim 16.

However, Park (and the provisional application of Park) discusses that (i) the PSN (Physical Sector Number) of the replacement cluster is read from the Address Unit of the Access Block in the read replacement cluster included in the OSA1 (Outer Space Area 1) and (ii) the PSN of the defective cluster is read from the Address Unit of the Access Block in the read replacement cluster included in the OSA1.

However, according to Park, both of the PSN of the replacement cluster and the PSN of the defective cluster are collectively recorded in the same replacement cluster. Namely, Park does not disclose that the PSN of the replacement cluster and the PSN of the defective cluster are separately recorded in the OSA1. In other words, Park does not disclose that (i) the PSN of the replacement cluster is recorded with one predetermined point which exists in the OSA1 as a start point and (ii) the PSN of the defective cluster is recorded with another predetermined point which exists in the OSA1.

The same argument can be applied likewise to Hwang (and the provisional application of Hwang) and Ito. Namely, each of Hwang and Ito does not disclose the above feature of the claims.

In addition, according to the claims, because the evacuation data is recorded with one predetermined point which exists in said shared area as a start point and the defect

management information is recorded with another predetermined point which exists at a different point from the one point as a start point, in the shared area, the recording areas are not separated like the optical disc in the comparison, and the defect management information and the evacuation data are recorded into the same shared area, This does not cause the technical disadvantage that the record data cannot be recorded although there is still a space area, which is caused by the fact that the recording is completed first until the limit of the recording capacity in either the area to record therein the defect management information or the area to record therein the evacuation data. In other words, it is possible to use the recording capacity (specially, the recording capacity of the shared area) to the greatest extent, by using the shared area corresponding to the above mentioned two areas for recording. In addition, even in the case where the data capacity of the defect management information is larger than that of the evacuation data, and on the contrary, in the case where the data capacity of the evacuation data is larger than that of the defect management information, or in similar cases, if there is a space area in the shared area, these data can be recorded properly, and this results in the proper defect management (see page 36 lines 3 to 19 of the Specification).

For at least the reasons discussed above, Park, Hwang and Ito, taken separately or in combination, fail to render obvious the features of claims 16, 20 and 22-26 and the claims dependent therefrom.

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. § 103. It is also submitted that claims 16, 17, 19, 20 and 22-26 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/James J. Livingston, Jr./
James J. Livingston, Jr.
Reg. No. 55,394
209 Madison Street, Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

JJL/dmw